

SUBCHAPTER B—RULES OF PRACTICE

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PART 1100—GENERAL PROVISIONS

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AUTHORITY: 49 U.S.C. 10321; 5 U.S.C. 559.

SOURCE: 47 FR 49548, Nov. 1, 1982, unless otherwise noted.

§ 1100.1 Scope of rules.

These rules govern practice and procedure before the Interstate Commerce Commission under title 49, subtitle IV of the United States Code (49 U.S.C. 10101 *et seq.*). This subchapter will be referred to as the “Rules of Practice”.

§ 1100.2 Applicability.

The rules in parts 1100–1129, Rules of General Applicability, establish general rules applicable to all types of proceedings. Other rules in this subchapter establish special rules applicable to particular types of proceedings. When there is a conflict or inconsistency between a rule of general applicability and a special rule, the special rule will govern.

[47 FR 49548, Nov. 1, 1982, as amended at 50 FR 30275, July 25, 1985]

§ 1100.3 Liberal construction.

The rules will be construed liberally to secure just, speedy and inexpensive determination of the issues presented.

§ 1100.4 Information and inquiries.

Persons with questions concerning these rules should either send a written inquiry addressed to the Secretary, Interstate Commerce Commission, Washington, DC 20423, or should telephone the Secretary’s Office, (202) 275-7428.

PART 1101—DEFINITIONS AND
CONSTRUCTION

Sec.

1101.1 Statutory definitions.

1101.2 Definitions applicable to this subchapter.

1101.3 Construction.

AUTHORITY: 49 U.S.C. 10321; 5 U.S.C. 559.

SOURCE: 47 FR 49548, Nov. 1, 1982, unless otherwise noted.

§ 1101.1 Statutory definitions.

The definitions contained in section 10102 of the Act (49 U.S.C. 10102) apply in this chapter.

§ 1101.2 Definitions applicable to this subchapter.

(a) *Act* or *Interstate Commerce Act* means subtitle IV of title 49 of the United States Code (49 U.S.C. 10101 *et seq.*).

(b) *Commission* means (1) the Interstate Commerce Commission and (2) any body or individual to which or to whom decision making authority is assigned by the Commission or the Chairman of the Commission, including a division of the Commission, the Chairman, another Commissioner, employee board, an individual employee, an administrative law judge, a joint board, or other hearing officer entitled to act in a particular proceeding. See 49 CFR part 1011, Commission Organization; Delegations of Authority.

(c) *Decision* means any formal, published action of the Commission, including orders and notices.

(d) *Party* means a complainant, defendant, applicant, respondent, protestant, intervener, or petitioner in any proceeding, or other persons permitted or directed by the Commission to participate in a proceeding. It will not include persons merely signing certificates of support or witnesses at oral hearing or in modified procedure proceedings, unless they are otherwise a party to the proceeding. Persons on the docket service list merely for the purpose of receiving copies of Commission releases are not considered parties to the proceeding.

(e) *Proceeding* includes:

(1) An *informal complaint* filed under §§ 1130.1, or 1130.3 or a *formal complaint* alleging violation of any provision of

the Act or of any regulation or requirement made pursuant to a power granted by such Act, including petitions on special dockets;

(2) An *application* for (i) the granting of any right, privilege, authority, or relief under or from any provision of the Act or of any regulation or requirement made pursuant to a power granted by such Act, or (ii) the consideration of any submission required by law to be made to the Commission;

(3) An *investigation* instituted by the Commission;

(4) A *rulemaking* proposal instituted by the Commission; or

(5) A petition for exemption filed under 49 U.S.C. 10505 requesting the Commission to exempt from application all or part of subtitle IV of title 49 of the United States Code any person, class of persons, transaction, or service related to a rail carrier.

[47 FR 49548, Nov. 1, 1982, as amended at 50 FR 30275, July 25, 1985]

§ 1101.3 Construction.

The rules of construction contained in chapter 1 of title 1 of the United States Code (1 U.S.C. 1 *et seq.*) apply in this chapter. Among other things, they provide that the singular includes the plural, and vice versa; that the masculine includes the feminine; that the word “person” includes corporations, associations, and the like; that “county” includes parish and similar subdivisions; and that “company” includes successors and assigns.

PART 1102—COMMUNICATIONS

AUTHORITY: 49 U.S.C. 10321; 5 U.S.C. 559.

§ 1102.1 How addressed.

All communications should be addressed to the Secretary of the Commission, Interstate Commerce Commission, Washington, DC 20423 unless otherwise specifically directed by another Commission regulation. All communications should designate the docket number and title, if any. The person communicating shall state his address, and the party he represents.

[47 FR 49548, Nov. 1, 1982]

§ 1102.2 Ex parte communications prohibited; penalties provided.

(a) *Definitions.* (1) “On-the-record proceeding” means any matter described in Sections 556–557 of the Administrative Procedure Act (5 U.S.C. 556–557) or any matter required by the Constitution, statute, Commission rule, or by decision in the particular case, that is decided solely on the record made in a Commission proceeding.

(2) “Person who intercedes in any proceeding” means any person, partnership, corporation, or association, private or public, outside of the Commission which is neither a party nor party’s agent, that volunteers a communication that it has reason to know may advance or adversely affect the interest of a party or party’s agent in any proceeding before the Commission.

(3) *Ex Parte* communication concerning the merits means an oral or written communication by or on the behalf of a party which is made without the knowledge or consent of any other party that could or is intended to influence anyone who participates or could reasonably be expected to participate in the decision.

(b) *Communications that are not prohibited.* (1) Any communication to which all the parties to the proceeding agree, or on which the Commission formally rules, may be made on an *ex parte* basis;

(2) Any communication of facts or contention which has general significance for a regulated industry if the communicator cannot reasonably be expected to have known that the facts or contentions are material to a substantive issue in a pending on-the-record proceeding in which it is interested;

(3) Any communication by means of the news media that in the ordinary course of business of the publisher is intended to inform the general public, members of the organization involved, or subscribers to such publication with respect to pending on-the-record proceedings.

(c) *Prohibitions.* (1) No party, counsel, agent of a party, or person who intercedes in any on-the-record proceeding shall engage in any *ex parte* communication concerning the merits of the proceeding with any Commissioner,